

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Bruce G. Klein,	)	
	)	
Plaintiff,	)	<b>ORDER</b>
	)	
vs.	)	
	)	
Gregory D. Klein, et al.,	)	Case No. 1:23-cv-223
	)	
Defendants.	)	

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Plaintiff initiated captioned action pro se on November 15, 2023, with the filing of a paid Complaint. (Doc. No. 1). On February 29, 2024, he filed what the court construes as a motion to amend his Complaint. He is endeavoring to join John V. Klein, Jr. as an additional defendant. (Doc. No. 28).

Rule 15(a) provides in relevant part that leave to amend the pleadings “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a). “Even though this is a liberal standard, parties do not have an absolute right to amend for any claim at any time.” Shank v. Carleton Coll., 329 F.R.D. 610, 613 (D. Minn. 2019) (citing Sherman v. Winco Fireworks, Inc., 532 F.3d 709, 715 (8th Cir. 2008)). A motion to amend maybe appropriately denied if “ there are compelling reasons such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the non-moving party, or futility of the amendment.” Sherman v. Winco Fireworks, Inc., 532 F.3d 709, 715.

The court is inclined to allow Plaintiff to amend his Complaint. First, Plaintiff’s motion to amend is timely; it was filed prior to the March 1, 2024, deadline for filing such motions. (Doc. No. 24). Second, Plaintiff’s proposed amendment should pose no appreciable prejudice to Defendants

given the present posture of this case. Third, Defendants have not lodged any objection to the motion. D.N.D. Civ. L.R. 7.1(B) (“The adverse party has fourteen (14) days after service of a memorandum in support [of a nondispositive motion] to serve and file a response . . . .”); D.N.D. Civ. L.R. 7.1(F) (“An adverse party’s failure to serve and file a response to a motion may be deemed an admission that the motion is well taken.”).

Accordingly, Plaintiff’s motion (Doc. No. 28) is **GRANTED**. Plaintiff shall have until March 29, 2024, to file an Amended Complaint. Plaintiff should take heed that his Amended Complaint becomes the operative pleading upon filing. Thus, an Amended Complaint must be complete in itself and must not incorporate by reference any prior pleadings. In other words, it must name all Defendants and contain all of Plaintiff’s claims against them.

**IT IS SO ORDERED.**

Dated this 18th day of March, 2024.

/s/ Clare R. Hochhalter

Clare R. Hochhalter, Magistrate Judge  
United States District Court